

\*\*E-Filed 06/26/06\*\*

NOT FOR CITATION

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**SAN JOSE DIVISION**

M. DIANE KOKEN, Insurance Commissioner of  
the Commonwealth of Pennsylvania, acting in her  
official capacity as Statutory Liquidator of Legion  
Insurance Company and Villanova Insurance  
Company,

Plaintiff,

v.

STATECO INC. dba STATECO INSURANCE  
SERVICES, et al.,

Defendants and Third Party Plaintiffs,

v.

MUTUAL INDEMNITY LTD., et al.,

Third Party Defendants.

Case No. C 05-03007 JF

ORDER<sup>1</sup> REGARDING THIRD  
PARTY PLAINTIFF'S MOTION TO  
DISMISS

[re: docket # 51]

On July 22, 2005, M. Diane Koken ("Koken"), Insurance Commissioner of the Commonwealth of Pennsylvania, acting in her official capacity as Statutory Liquidator of Legion Insurance Company ("Legion") and Villanova Insurance Company ("Villanova"), filed a complaint against Defendants Stateco Insurance Services ("Stateco"), a California corporation,

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<sup>1</sup> This disposition is not designated for publication and may not be cited.

1 Thomas Natoli ("Natoli"), XYZ Corps. 1-10, and Does 1-10. On December 21, 2005,  
2 Defendants Stateco and Natoli filed a counterclaim and a third party complaint against Mutual  
3 Indemnity Ltd. ("MI"), Mutual Indemnity (Bermuda) Ltd. ("MI Bermuda"), Mutual Indemnity  
4 (Barbados) Ltd. ("MI Barbados"), Mutual Indemnity (US) Ltd. ("MI US"), Mutual Indemnity  
5 (Dublin) Ltd. ("MI Dublin") and Mutual Holdings (Bermuda) Ltd. ("MH Bermuda").  
6 (collectively "Mutual Defendants"), XYZ Corporations 1 -10, and Does 1 - 10. Mutual  
7 Defendants move to dismiss the third party complaint pursuant to Federal Rule of Civil  
8 Procedure 12(b)(3) and, in the alternative, Rule 12 (b)(2).

9 On June 22, 2006, this Court heard oral argument on the instant motion. During oral  
10 argument, Stateco's counsel requested leave to amend its third party complaint. Counsel for  
11 Mutual Defendants did not object. Accordingly, Stateco shall have leave to file an amended third  
12 party complaint, which shall be filed within twenty (20) days of the date of this Order. In light of  
13 Stateco's anticipated amended complaint, the instant motion to dismiss is moot. The Court will  
14 take the instant motion to dismiss off of the calendar without prejudice to a renewed motion to  
15 dismiss.

16 IT IS SO ORDERED.

17  
18 DATED: June 26, 2006

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21 JEREMY FOGEL  
22 United States District Judge  
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1 This Order has been served upon the following persons:  
2

3 Jean L. Bertrand jlb@mjllp.com, nyp@mjllp.com  
4

5 John P. Kern jkern@manatt.com, jyoung@manatt.com  
6

7 Adrienne S. Leight asl@mjllp.com, awl@mjllp.com  
8

9 Laura Anne Palazzolo laura.palazzolo@berliner.com,  
10 rebecca.revelez@berliner.com,  
victoria.maydanik@berliner.com

11 Anthony R. Twardowski atwardowski@wolfblock.com, mcrowley@wolfblock.com  
12

13 Michael B. Cavadel  
14 Wolf, Block, Schorr and Solis-Cohen LLP  
15 1650 Arch Street  
22nd Floor  
Philadelphia, PA 19103

16 Douglas Y. Christian  
17 1735 Market Street  
51st Floor  
18 Philadelphia, PA 19103-7599

19 Damian L. Dinicola  
20 1735 Market Street  
51st Floor  
21 Philadelphia, PA 19103-7599  
22  
23  
24  
25  
26  
27